DEFENSE POLICY: Freedom of Information Act

Before Congress

Classified Information Procedures Outlined

The Pentagon's top legal expert, General Counsel J. Fred Buzhardt, told U.S. Representatives on Capitol Hill last month that the Department of Defense has done its best to adhere to Defense Secretary Melvin R. Laird's long-imposed requirement that "The provisions of the Freedom of Information Act . . . be supported in both letter and spirit."

Mr. Buzhardt appeared April 17 before the House Subcommittee on Foreign Operations and Government Information, Committee on Government Operations, to describe the experience of the Defense Department in complying with the Freedom of Information Act (5 U.S. Code 552).

He told the Congressmen that Freedom of Information policies are covered in DoD Directive 5400.7 which

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COMMANDERS DIGEST

DEPARTMENT OF DEFENSE • WASHINGTON, D.C.

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RESEARCH AND DEVELOPMENT: Procurement Policy

Weapon Systems Acquisition

'Trade-Offs': Best Performance at Right Price

The term, "trade-offs," frequently used these days in relation to Defense Research and Engineering programs, means acquiring weapon systems at minimum costs by using sound management evaluation and standing fast within the initial budget estimates. It also means that the Defense Department is willing to take slightly reduced weapon systems performance if substantial dollar savings can be made.

In fact, the term was used repeatedly last April by Dr. John S. Foster Jr., Director of Defense Research and Engineering, in a speech before the American Ordnance Association in Cleveland, Ohio.

Dr. Foster warned that the increasing high costs of weapon systems places the Nation in a situation in which insufficient numbers of too expensive weapons can be purchased.

The Defense Department expert on research and engineering emphasized ". . . that unless the project manager—the managing engineer—has a chance to run his program—and unless he is good, unless he is experienced—there is no way we truly can improve our development acquisition process.

"We also demand realistic trade-offs in determining our programs—trade-offs to balance costs against performance and schedule. These trade-offs are made not only at the beginning when we are talking about a new program on paper but also through the life of the program. We trade-off as we test—we continue to trade-off as we begin production."

Dr. Foster placed some of the cost-increase blame on inflation, some on the vast logistics system being supported, and "some because of our natural desire to provide our forces with extremely capable weapon systems."

As an example of the trade-off principle, Dr. Foster specifically cited the new combat AX aircraft now being developed for the Air Force. Two years ago, according to the Director, two companies won contracts in competitive bid-

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SECURITY POLICIES

(Continued from Page 1)

was issued several days before the July 4, 1967, effective date of the Freedom of Information Act. Subject to those policies, he said, each Military Department and Defense agency administers the Act in accordance with its own regulations.

No Statistics Requirement

The General Counsel noted that there has been no general requirement throughout the Defense Department for maintenance of statistics on the number of "formal requests" under the Act. "Indeed," he asserted, "we are uncertain of what would constitute a so-called 'formal request.' I assume that any request for a record made by a member of the public constitutes a valid request within the purview of the Act."

Mr. Buzhardt stressed that it should not be necessary for an individual requesting a record to cite the Act before his request is evaluated in accordance with the intentions of the Congress expressed in the Act. Such a restriction would obviously favor the sophisticated and work to the disadvantage of those average citizens who may have little technical knowledge about the Act, yet are the very persons for whom the "right to know" is most important.

He accentuated the point, saying, 'It is, therefore, our policy to treat each request for a record as though it was made by the most knowledgeable law firm in Washington. . . ."

Exemptions

The only requests for information under the Act which may be denied are those involving records which clearly come within one of the exemptions of Section 552(b), Title 5, U.S.C. Even then, all officials of the Defense Department are instructed that a record exempted under the Act should be released whenever it is determined that no significant purpose would be served by withholding it.

Generally speaking, the experience of the Defense Department with the Act has been satisfactory. To carry out its intent, the Department has made it clear to all officials of the Department that there is a presumption in favor of the release of any record requested by a citizen. The burden of refusing such a request is clearly on the official who proposes such a denial. It is easier to release information than to withhold it.

Attorney General's Memorandum

Mr. Buzhardt mentioned that the Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act has proven extremely helpful to the Defense Department in interpreting some of the more troublesome exemptions.

A system of consultation with the Department of Justice has been in effect since Dec. 8, 1969. "The Military Departments and agencies," the General Counsel related, "have followed instructions from my office to comply with the procedures outlined by the Justice Department in its Memorandum. It has also been our practice for a member of my staff to monitor most of these consultations—particularly when they involve records of a type that are common to more than one Military Department or agency."

Not A 'Court of Appeals'

Mr. Buzhardt stressed that his office does not serve as a "Court of Appeals" from the decisions by the heads of the various Department or Agency components. Each Department and Agency head makes his own final decision, he said, either personally or through his designee. From time-to-time, the several legal officers within the Department confer on these matters, and members of Mr. Buzhardt's staff attempt to provide assistance to those legal officers within the Defense Department who request advice on individual Freedom of Information problems.

Final Decision

However, the final decision, he emphasized, is made by or on behalf of the head of the component which holds the requested record. The policy is provided for in DoD Directive 5400.7.

Another point of some confusion which he clarified involved the use of the legend "For Official Use Only" on some documents, a particular designation that has been used in the Defense Department for many years.

'For Official Use Only'

At the time the Freedom of Information Act was implemented in the DoD, it was determined that the "For Official Use Only" designation should be limited to those documents which have come within the exemptions of the Act, and that it could *not* be used as a form of security classification.

The DoD Directive is explicit in saying that the use of the designation is optional with those who find it a useful means of insuring that all persons having access to a record coming within a Freedom of Information Act exemption are aware that it should not be publicly released without prior review and should *not* be handled indiscriminately.

General Counsel Buzhardt noted that the marking "For Official Use Only" does not relieve an official of his responsibility to review a request for a record for the purpose of determining whether an exemption is applicable, and whether any significant purpose will be served by denying that record to the requester. He said, "The reviewer may discover that the legend was improperly applied or that the passage of time makes it possible to release the document."

Not A Classification

Then, he added, "The term 'For Official Use Only' is not properly denominated a 'classification.' There are only three categories of security classification: Top Secret, Secret, and Confidential. These all have to do with the interest of national security or foreign relations of the United States.

"I repeat, for emphasis, that 'For Official Use Only documents can be withheld from the public *only* when they come within one of the express exemptions provided by the Congress in the Freedom of Information Act, and only when their release would be inconsistent with a significant responsibility of the Department of Defense."

COMMANDERS DIGEST

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ADDRESSES CLASS. Lieutenant Colonel William Voight, Commander of the Air Force Skill Center, Forbes AFB, Kansas, speaks to members of the first graduating class prior to their departure from active duty. (Official U.S. Air Force Photo)

At Forbes AFB, Kansas

Gateway To Civilian Life

The Defense Department's Project Transition program gained added impetus earlier this year as the Air Force Skill Center at Forbes AFB, Kansas, graduated 28 airmen in its first class after seven weeks of specialized training in marketable civilian skills.

The Air Force announced last November that it had selected the Forbes AFB site because of its available dormitories and facilities. It is now the job-training center for all airmen preparing to return to civilian life with an employable skill.

Although the center is operated by the Air Force, it is sponsored by the Departments of Labor and Health, Education and Welfare. It is funded through the Manpower Development and Training Act.

Since the school opened at Forbes, representatives of the Kansas Employment Service assigned to the program have been contacting Federal Employment Services in each student's hometown area to secure job positions for when they are discharged. The first class of graduates represented 16 States and were immediately discharged upon graduation.

The Air Force Skill Center will graduate a total of 1,400 students annually on a pro-rated weekly basis. Skills learned at the Forbes center range from air conditioning and refrigeration repairs to general sales and business machine repairs.

The center expects to have a student body of approximately 400 airmen by mid-summer. Base personnel will be increased by about 80 military and 20 civilian spaces to handle the increased workload.

MILITARY STRENGTH FIGURES FOR APRIL 1972

Total numerical strength of the Armed Forces on April 30, 1972, based on preliminary reports, was 2,340,713, representing a decrease of 44,334 from the March 31, 1972, combined strength of 2,385,047.

April strength figures for each service, with month-ago and year-ago figures for comparison, follow:

	April 30 1972 (Preliminary)	March 31 1972	April 30 1971
Total DoD	2,340,713	2,385,047	2,769,517
Army	816,333	850,697	1,163,338
Navy	587,918	593,213	631,216
Marine Corps	196,494	197,526	219,847
Air Force	739,968	743,611	755,116

The figures represent full-time military personnel comprising both regulars and reserves on continuous active duty and officer candidates including cadets at the Military and Air Academies and midshipmen at the Naval Academy.

Hanoi's Invasion Of South Vietnam

Background: North Viet-Nam's offensives across the Demilitarized Zone and the borders of Cambodia and Laos have given a new dimension to the war in Indochina. North Viet-Nam has:

—Openly committed 12 of its 13 known active combat divisions to this massive invasion, and units of the remaining division are now located within and just north of the DMZ.

—Indiscriminately used long-range artillery and rockets against densely-populated areas, including refugee centers, in an effort to terrorize and demoralize the civilian population;

—Been preparing for this massive attack for many months despite intensive U.S. and Government of Viet-Nam efforts at Paris to arrive at a negotiated settlement;

—Refused both in public and private to undertake serious negotiations of a settlement.

It is clear that North Viet-Nam is engaged in an all-out effort to take over South Viet-Nam by force. Its invasion has created unprecedented dangers for U.S. forces remaining in South Viet-Nam, the forces of South Viet-Nam and the Republic itself. Moreover, North Viet-Nam's action is a flagrant violation of the 1954 Geneva Accords as well as the 1968 understandings which were intended to guarantee the buffer status of the DMZ.

U.S. Response: Our immediate response was to intensify air and naval strikes against North Vietnamese military targets, thereby enabling us to continue to carry out our troop withdrawal program. On May 8 President Nixon announced his decision to mine all entrances to North Vietnamese ports to shut off supply channels by sea, and to use air power to halt overland deliveries from other countries of materiel needed by Hanoi to keep its offensive going.

Mining is not a new element in the war. The North Vietnamese and Viet Cong have since 1964 repeatedly mined neutral as well as combatant-country shipping in South Vietnamese waterways and harbors. The most recent result of enemy mining occurred on March 10, 1972, when a ship of Somali registration was sunk in the Mekong River.

U.S. Objective: Interdiction of harbor approaches and the bombing of rail lines and other lines of communication in North Viet-Nam will seriously complicate North Viet-Nam's support for their invading forces in the South, providing an incentive to halt the invasion. It is the most restrained of several responses open to the President in carrying out his obligation to protect American forces and to help our ally. This action:

—is not directed against any country other than North Viet-Nam;

—reduces the risk of naval confrontation with supplying nations on the high seas;

—minimizes the risk of civilian casualties;

—is justified under Article 51 of the U.N. Charter concerning the "inherent right of collective self-defense."

New U.S. Peace Offer: The President's action is also designed to bring the fighting to an end and open the way for a negotiated settlement. President Nixon has pledged that "all U.S. acts of force throughout Indochina will cease" when all American prisoners of war are returned and an internationally supervised cease-fire throughout Indochina is in effect. At that time the U.S. will stop all acts of force throughout Indochina, and will proceed with a complete withdrawal of all American forces from Viet-Nam within four months. These are generous terms for resolving the military elements of a settlement, while permitting negotiation of a political solution by the Vietnamese themselves.

We remain committed to a negotiated settlement as the quickest way to end the war, and we are prepared to resume the Paris talks whenever the other side indicates it is seriously interested in discussing the substance of the issues or when we believe it would be useful to hold a meeting.

Based on: State Department GIST No. 75

U.S. MILITARY STRENGTH IN THE REPUBLIC OF SOUTH VIETNAM

	As of 25 May 72	As of 18 May 72
Army	43,000	43,500
Navy	2,800	2,800
Coast Guard	100	100
Marines	2,400	1,800
Air Force	16,500	16,600
TOTAL	64,800	64,800
Free World Forces	38,700	38,500

In addition 41,000 Navy personnel are stationed offshore with the 7th Fleet.

'Trade-Offs'

(Continued from Page 1)

ding to build prototypes of a close support aircraft, a project which might lead to an eventual 600 aircraft. The contractors and the Air Force requested that the program plan be changed from an $800 million plus program to $1 billion to $1.3 billion depending on the contractor selected—an increase of $200-to-$500 million.

However, David Packard, then Deputy Secretary of Defense, refused to allow the increase in cost. He ruled that the cost would remain at $1.4 million for each of the 600 aircraft.

The prototype planes of each company were redesigned to meet the price. Components were changed and the aircraft are now different from those first envisioned.

"If you look at those prototypes today," Dr. Foster asserted, "you will see

Artist's concept of the AX aircraft

that they don't have the slick finish of the new supersonic aircraft—they don't need it. One design has rivets that stick up and skin panels that overlap—changes which are perfectly adequate for the job the airplane has to do. They are different from the original designs. They weigh a different amount. They are different in size. These can cost less than $1.4 million—and we'll get the performance that is needed to do the job."

At the policy-making level, there is confidence that the steps now being taken to resolve the planning-cost-production problems are moving in the right direction—by resorting to cost-performance trade-offs.

Navy Fliers Shoot Down Five MIGS To Become Vietnam's First Jet Aces

AVIATION HISTORY MAKERS. The Vietnam war's first air aces, Navy Pilot Lieutenant Randy Cunningham, second from left, and Navy Radar Intercept Officer Lieutenant (JG) William P. Driscoll, second from right, simulate aerial maneuvers for the Navy's two top leaders. Congratulating the pair at the Pentagon on May 19 are Navy Secretary John W. Warner, left, and Chief of Naval Operations Elmo R. Zumwalt Jr. **(Official U.S. Navy Photo)**

Two Navy crewmen, flying an F-4J Phantom II fighter in air actions over North Vietnam, made aviation history May 10 by becoming the first Vietnam War air aces and the world's first "Jet team aces." They are also the first fliers to score a triple kill over Vietnam and the first U.S. "all-missile" aces.

Lieutenant Randy Cunningham, pilot, and Lieutenant (JG) William P. Driscoll, radar intercept officer, downed their third, fourth and fifth MIGs on May 10 before their own plane was hit by an enemy surface-to-air missile and went down off the coast of Vietnam.

Both men were quickly rescued by helicopter and returned to their unit, Fighter Squadron 96, which operates from the USS Constellation (CVA-64). They had bagged their first MIG on Jan. 19 this year and their second May 8.

Thus far in the air war, the only other most promising candidate for an "ace" title was Air Force Brigadier General (then Colonel) Robin Olds. He downed four MIGs in air battles over Vietnam during 1967 while commanding the 8th Tactical Fighter Wing stationed at Ubon Royal Thai air base in northern Thailand.

Gen. Olds became a multiple ace during World War II when he got 13 kills.

DEFENSE POLICY

At Department of Defense Level

New Safety Policy Office Established

A new office for safety policy has been established at Department of Defense level under the Assistant Secretary of Defense for Manpower and Reserve Affairs.

Mr. George L. Feazell, Director of Safety Policy (M&RA), describes the new office as filling the need for a focal point to talk with a single voice to other Federal and State safety agencies which have statutory power and inspection responsibilities over contractual workers.

As he pointed out, the Defense Department, in the role of employer, has the same obligations as private firms to implement safety and health standards.

Commanders are advised that those standards imposed by other agencies—notably the Departments of Labor and Health, Education, and Welfare, plus some State regulatory agencies—apply to Federal employees who are covered by Executive Order 11612. Those standards do not apply to military men whose health and safety have long been the responsibility of the commander.

The new safety policy office at the Pentagon is primarily concerned with contractual work.

Mr. Feazell also said his office will monitor and coordinate DoD components in carrying out the President's "Zero in on Federal Safety" program.

As he explained, his is a policy office and does not affect in any manner the safety responsibilities of the Assistant Secretary of Defense for Installations and Logistics in the handling of munitions and of the Director of Defense Research and Engineering for missile range safety. Functions of the new office are outlined in DoD Directive 1000.3, dated March 20, 1972.

For Coming Decade

Army CONUS Reorganization Studied

Major General James G. Kalergis has been named project manager to develop a plan for a major reorganization of Army elements stationed in the continental United States.

The Army Staff has been studying possible realignments of major commands and higher headquarters staffs, focusing on ways and means to improve the capability of the Army to maintain active and Reserve Forces readiness, increase the effectiveness of schools and training, and to improve methods of developing equipment and forces. Gen. Kalergis will draw upon the studies to recommend a program of organizational improvement.

Proposals are being considered which could create substantial changes in the organization of Army commands and agencies in the continental United States.

Gen. Kalergis also will be responsible for planning and coordinating the implementation of approved changes in Army organization. The reorganization will streamline the U.S. Army command and management structure to meet the requirements of the coming decade.

The announcement was made by Army officials April 27.

NATIONAL POLICY: Civilian PW/MIAs

Legislation Proposed to Assist American Civilian Prisoners of War

The State Department has sent to the Congress proposed legislation to liberalize benefits for American civilian prisoners of war.

Section 1 of the proposed bill would amend the War Claims Act of 1948 to increase the detention benefit for civilians from $60 per month to $150 per month.

The amendment would equate detention benefits authorized for civilian and military personnel who are or were being held prisoners or who are or were missing and presumed captured. The proposed benefit of $150 per month for civilians would be equivalent to the $5 per day benefit authorized for military personnel through a 1971 amendment to the War Claims Court.

Section 2 of the proposed bill would amend Title 5 of the U.S. Code to authorize payment to any Federal civilian employe or to his survivor for annual leave accrued to him and which he was required to forfeit because he was unable to use leave by virtue of his missing or captured status.

The provision would be applicable on a worldwide basis whenever a Federal employe is detained against his will by a hostile force or is missing involuntarily for some other reason.

DRUG ABUSE

Goal: ". . . to identify and salvage. . . ."

USAF Drug, Alcohol Abuse Program Outlined

Only 655 drug abusers were turned up as the result of more than 135,000 urinalysis tests given Air Force personnel worldwide in 1971.

The statistic was one of several points stressed by Air Force Major General John W. Roberts in a March 1 appearance before the Senate Armed Services Committee. In his statement, Gen. Roberts, Director of Personnel Plans at Headquarters, U.S. Air Force, covered the entire Air Force approach to the problem of drug and alcohol abuse control.

Terming his Service's response to President Richard Nixon's mid-June 1971 initiatives a ". . . comprehensive, flexible, five-phase approach to drug abuse rehabilitation," the general officer explained that the program is applied in both centralized and decentralized rehabilitation programs.

Five-Phase Program

The "anchor" for Air Force rehabilitees is at the local level in the base Social Action Office. Gen. Roberts pointed out that it is there that rehabilitees can successfully transition back into the military environment.

The local effort is in the fifth phase of the Air Force's program. The first phase is identification of individuals, either through tests or the Air Force's limited privileged communication program. More than 2,400 personnel voluntarily went in for medical aid under the program during 1971, Gen. Roberts said.

Phase two is detoxification of identified users.

The U.S. Air Force Special Treatment Center (STC) at Lackland AFB, Texas, is the central facility for psychiatric evaluation, the third phase of the program.

The fourth phase, also done at STC, is voluntary, providing constructive alternatives to drug abuse. Through an intensive seven-week program—using group and individual therapy, seminars, counseling and activity therapy—the airmen are prepared to return as productive members of society—military or civilian.

Other Approaches

Since base Social Action Offices are charged with treating the causes as well as symptoms of drug abuse through extensive education and training efforts, according to Gen. Roberts, the Air Force has set up a four-week course to provide trained personnel at installation-level offices. Individuals who go through the courses, taught at Lackland AFB; are trained in such techniques as setting up drug abuse workshops, parent-child seminars, reciprocal community presentations, peer-group counseling, and explaining ways to effectively use the local resources, both military and civilian, in the installations' areas.

Such base Social Action Offices will also be the focal points for the Air Force's alcohol abuse control program, which the general officer also outlined to the Committee members. "The essential feature of our program," Gen. Roberts said, "is the small-group therapy concept, consisting of up to 15 patients with constantly rotating membership."

In addition to living, working and spending leisure time together, individuals in such alcohol abuse control programs also attended local Alcoholic Anonymous meetings as a group.

The aim of the Air Force, according to Gen. Roberts, is "to identify and salvage those who abuse drugs—including alcohol—and prevent others from becoming drug abusers through education efforts, while avoiding any compromise in combat effectiveness of the Air Force."

DOMESTIC ACTION: U.S. Navy

Employment Training, Rehabilitation

Navy Enters Data Processing Program With Federal Prison Industries

The Navy and the Federal Prison Industries, Inc., have entered into a $127,351 agreement which will provide Automatic Data Processing production support to the Navy's Ship Equipment Configuration Accounting System (SECAS) program.

Federal Prison Industries is a wholly-owned Government corporation providing employment, training and rehabilitation for Federal offenders. The contract allows the workers to contribute to society while simultaneously generating a small income. The training, received on modern, up-to-date equipment, will facilitate location of suitable employment upon release from the institution.

The production support provided by the Federal Prison Industries will be conducted at the Federal Reformatory for Women, Alderson, W. Va.

The production staff will be composed of six key-tape and ten clerical personnel, all Reformatory residents. An automatic data processing link will connect the Reformatory with the Naval Ordnance Station in Indian Head, Md.

SECAS is a new computerized configuration accounting system which will enable the Navy to maintain an accurate inventory of all equipment aboard its ships deployed throughout the world.

This inventory will allow better support of the Fleet with spares, publications, maintenance and test equipment, and to more effectively plan future alterations of its operating units.

ARMED FORCES INITIATIVES

Evangelist Reverend Billy Graham received the 15th annual Sylvanus Thayer Award from the United States Military Academy Association of Graduates (USMAAG) during ceremonies at West Point on May 4 (see photo at right). The award was presented by retired Army Brig. Gen. Paul W. Thompson, USMAAG President.

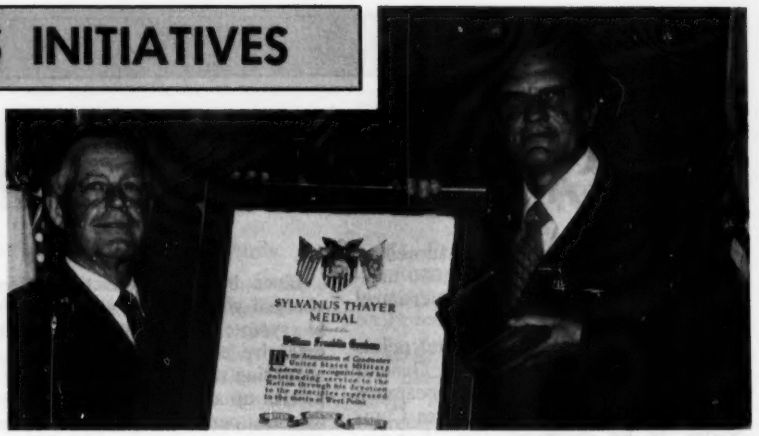
The Thayer Award is presented annually by the association to an outstanding citizen of the United States whose services in the national interest exemplifies personal devotion to the ideals expressed in the Military Academy's motto: "Duty, Honor, Country."

The Thayer Award is named in honor of Colonel Sylvanus Thayer, fifth Superintendent of the Military Academy. He is honored today as

Col. Sylvanus Thayer

the "Father of the Military Academy" for his educational innovations which are still in use today at West Point.

The award consists of a scroll and gold medal featuring a bust of Thayer with the inscription: "The Sylvanus Thayer Medal Awarded by the Association of Graduates, United States Military Academy, for Outstanding Service to the Nation." The reverse side bears the name of the recipient and the Coat of Arms of the Military Academy.



HEALTH AND ENVIRONMENT. On a reecent Military Airlift Command flight, a passenger suddenly opened a box and released 500 live houseflies. Rather zany, but true. It happened on a recent MAC East Coast courier flight. Reason for the strange happening: two Department of Agriculture scientists were testing a new in-flight bug spray to be used in the future on international flights. The spray, adopted for use by the World Health Organization, was made to kill harmful insects that board a plane with passengers. It is designed to kill insects that are resistant to other conventional sprays without irritating passengers and crew. If effective the Department of Defense may use the insecticides on flights returning from overseas.

DOMESTIC ACTION. Eglin Air Force Base, Florida, hosted a Special Olympics program for the 500 mentally handicapped children from seven Florida counties May 6. Part of a nationwide program in which more than 100,000 children participate annually, the Special Olympics were developed and sponsored by the Joseph P. Kennedy Jr. Foundation. They are designed to help improve the "self image" of retarded children through athletic competition. Many of the children have serious physical, as well as mental, handicaps and are on crutches or in wheelchairs.

RECRUITING. White vehicles (above photo) with distinctive Navy markings are making their appearance throughout the country, replacing the black government vehicles formerly used by Navy recruiters. As part of the Navy Recruitment Command's effort to enhance recruiting for the All-Volunteer environment, 731 new sedans will be leased this fiscal year. Existing Government-owned sedans, station wagons and vans also are being repainted to project the "new look" in Navy recruiting.

(Official U.S. Navy Photo by PM1 John W. Rogers, Jr.)

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